

**UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF NEW YORK**

JAVELL FOX,

v.

**9:15-CV-390
(TJM-CFH)**

**SUPERINTENDENT LEE, Easter NY
Correctional Facility, et al.,**

Defendants.

**THOMAS J. McAVOY,
Senior United States District Judge**

ORDER

This 42 U.S.C. § 1983 action alleges that Defendants, prison guards and officials, violated Plaintiff's constitutional rights by limiting his ability to wear his religious hairstyle. The Court referred the case to the Hon. Christian F. Hummel, United States Magistrate Judge, for two Reports and Recommendations pursuant to 28 U.S.C. § 636(b) and Rule 72.3(d) of the Local Rules of the Northern District of New York. The Reports-Recommendations, both dated February 5, 2018, recommend that the Court deny Plaintiff's motion for summary judgment, deny Defendants' motion to dismiss, deny Plaintiff's motions for contempt, and deny Plaintiff's motions for leave to amend his Complaint.

Plaintiff filed objections to the Reports-Recommendations. When objections to a magistrate judge's Report-Recommendation are lodged, the Court makes a "*de novo*" determination of those portions of the report or specified proposed findings or

recommendations to which objection is made.” See 28 U.S.C. § 636(b)(1). After such a review, the Court may “accept, reject, or modify, in whole or in part, the findings or recommendations made by the magistrate judge. The judge may also receive further evidence or recommit the matter to the magistrate judge with instructions.” Id.

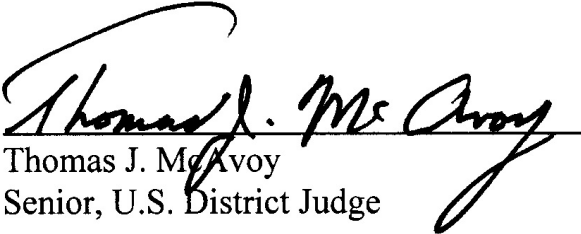
Having reviewed the record *de novo* and having considered the issues raised in the Plaintiff’s objections, the Court has determined to accept and adopt the recommendations of Magistrate Judge Hummel for the reasons stated in the Reports-Recommendations.

Accordingly, Plaintiff’s objections, dkt. #s 150, 151, to the Reports-Recommendations of Magistrate Judge Hummel, dkt. #s 144, 145, are hereby OVERRULED. The Reports-Recommendations are hereby ACCEPTED, as follows:

1. Plaintiff’s motion for Summary Judgment, dkt. # 111, is hereby DENIED;
2. Defendants’ motion to dismiss, dkt. # 118, is hereby DENIED without prejudice and with an opportunity to renew by way of a combined motion to dismiss and motion for summary judgment limited to the issue of exhaustion or, in the alternative, by way of an exhaustion hearing, should the Defendants request such a hearing;
3. The case is REMANDED to the Magistrate Judge to set deadlines for any renewed motion to dismiss based on exhaustion;
4. Plaintiff’s motions for contempt, dkt. #s 117, 129, 130, 131, 138 are hereby DENIED; and
5. Insofar as Plaintiff’s motions can be read as motions for leave to amend his Complaint, dkt. #s 117, 129, 130, 131, 138, those motions are DENIED.

IT IS SO ORDERED

DATED: March 6, 2018


Thomas J. McAvoy
Senior, U.S. District Judge